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8 Attorneys for Defendant United States of America

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

13 GARY NIVA and ALINKA NIVA, as ) No. C 03-0908 RS  
Administrators of the Estate of ERIC )  
14 AUSTIN NIVA, deceased, ) STIPULATION AND [PROPOSED]  
Plaintiffs, ) ORDER VACATING TRIAL AND  
15 ) PRETRIAL SCHEDULE  
v. ) Trial Date: November 23, 2009  
16 )  
17 UNITED STATES OF AMERICA, )  
Defendant. )

**20** || This case is currently scheduled for trial on November 23, 2009.

21 The parties participated in a mediation on November 3, 2009 and have reached a contingent  
22 settlement. The settlement must be approved by the Assistant Attorney General before it can be  
23 submitted to the Court. Accordingly, the parties hereby STIPULATE AND REQUEST that the  
24 current trial and pretrial schedule, including the trial date of November 23, 2009, be vacated and a  
25 status conference be set in approximately 60 days.

**26** //  
**27** //  
**28** //

STIPULATION AND [PROPOSED] ORDER VACATING TRIAL DATE  
C 03-0908 RS

1 Respectfully submitted,

2  
3 DATED: November 5, 2009

JOSEPH P. RUSSONIELLO  
United States Attorney

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5  
6 DATED: November 4, 2009

/s/ Claire T. Cormier<sup>1</sup>

CLAIRES T. CORMIER  
Assistant United States Attorney

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14 DATED: November 4, 2009

THE BOCCARDO LAW FIRM LLP

/s/ John C. Stein

JOHN C. STEIN  
Attorney for Plaintiff

**[PROPOSED] ORDER**

Upon stipulation of the parties and good cause appearing, IT IS HEREBY ORDERED that the pretrial schedule and the trial date for this action are VACATED. Unless a stipulation of dismissal is filed, Counsel shall appear for a status conference on January 13, 2010 at 2:30 p.m.

DATED: November 9 , 2009

  
RICHARD SEEBOORG  
United States Magistrate Judge

<sup>1</sup> I, Claire T. Cormier, hereby attest that I have on file all holographic signatures for any signatures indicated by a "conformed" signature (/s/) within this e-filed document.